

2015 Shoreline Management Act Amendments

The 2015 legislative session included one adopted bill amending the Shoreline Management Act (SMA, RCW 90.58). ESSB 5994 is effective July 6, 2015.

Local governments should review the changes carefully for implications to shoreline planning and permitting work.

ESSB 5994 – Permits for State Transportation Projects

The bill updates statutory provisions relating to review, permitting, and approval of Washington State Department of Transportation (WSDOT) projects. Section 1 sets out the legislative findings related to streamlining regulatory processes while protecting natural resources.

Section 2 sets a **three-month target for local approval of WSDOT highway projects with estimated costs under \$500 million**. To the greatest extent practicable, cities and counties must make a final determination within 90 days after the WSDOT's submission of a complete permit application. WSDOT must prepare an annual report to the Legislature and Governor on permit applications that take longer to get local approval. Sections 3 – 5 link this requirement to cities, towns and counties.

Sections 8 - 10 **exclude state highway maintenance and minor safety upgrade activities from local review and approval processes** under the Shoreline Management Act (SMA). The following activities do not require any local kind of SMA permit or letter of exemption:

- (a) Maintenance, repair, or replacement that occurs within the road prism, the lease or ownership area of a state ferry terminal, or the lease or ownership area of a transit facility, including ancillary transportation facilities such as pedestrian and bike lanes.
- (b) Construction or installation of safety structures and equipment, including pavement marking, freeway surveillance and control systems, railroad protective devices not including grade separated crossings, grooving, glare screen, safety barriers, energy attenuators, and hazardous or dangerous tree removal;
- (c) Maintenance occurring within the right-of-way; or
- (d) Construction undertaken in response to unforeseen, extraordinary circumstances that is necessary to prevent a decline, lapse, or cessation of service from a lawfully established transportation facility.

Definitions are provided for "maintenance", "repair" and "replacement." The definitions include sideboards on the size and impacts of qualifying projects.

WSDOT is required to send notice of projects and activities that cost in excess of \$1 million before the design is finalized to all agencies with jurisdiction, agencies with facilities or services that may be impacted, and adjacent property owners.

Section 7 identifies a **process that WSDOT can use for major construction projects that address significant public safety risk**. Qualifying projects are not subject to stay during resolution of a shoreline permit appeal. Where WSDOT develops a specific mitigation plan in consultation with Ecology and obtains a determination by local government that the project ensures no net loss of ecological functions, the project may begin work 21 days after the date of permit filing.

For more information

- Washington legislative web site <http://apps.leg.wa.gov/billinfo/>
- Other [Laws, Rules and Cases](#) related to the Shoreline Management Act.
- Questions? Please contact Ecology's [regional shoreline planner for your city or county](#).

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